

14 JUN 2000



UNITED STATES DEPARTMENT OF  
COMMERCE

Patent and Trademark Office

Patent Cooperation Treaty Legal Office

Address: Assistant Commissioner for Patents  
Box PCT  
Washington, D.C. 20231

Michele K. Yoder  
JAMES RAY & ASSOCIATES  
2640 PITCAIRN ROAD  
MONROEVILLE, PA 15146

In re Application of	:	
OLSSON, Sven, Gunnar et al.	:	
Application No.: 09/297,798	:	DECISION ON
PCT No.: PCT/SE97/01854	:	
Int. Filing Date: 06 November 1997	:	PETITION
Priority Date: 06 November 1996	:	
Attorney Docket No.: SG99127	:	UNDER
For: METHOD AND APPARATUS FOR	:	
DETERMINING INDIRECTLY THE	:	37 C.F.R. 1.181
CONCENTRATION OF SPECIFIC	:	
SUBSTANCE IN THE BLOOD	:	

This is a decision on applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed in the Patent and Trademark Office (PTO) on 13 March 2000. The petition is being treated as a petition under 37 C.F.R. 1.181 to withdraw the holding of abandonment in view of the policy published at 1156 QG 53, **Withdrawing the Holding of Abandonment When Office Actions Are Not Received**. No petition fee is required.

**BACKGROUND**

On 06 November 1997, applicants filed international application No. PCT/SE97/01854 that claimed a priority date of 06 November 1996, and designated the United States. On 04 June 1998, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for entry into the national stage in the U.S. was extended to expire 30 months from the priority date, i.e., 06 May 1999.

On 06 May 1999, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a copy of the international application.

On 14 June 1999, the United States Designated/Elected Office (DO/EO/US) mailed

**BEST AVAILABLE COPY**

PCT/DO/EO/905). The notification set a ONE (1) MONTH period for response.

On 01 March 2000, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the applicant failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 14 June 1999, within the time period set therein.

On 13 March 2000, applicants filed the present request asking that the holding of abandonment in the case be withdrawn on the grounds that applicants did not receive the 14 June 1999 notification. The petition was accompanied by, *inter alia*: a copy of the Notification of Abandonment, a copy of the "docketing system" with respect to the instant application and a copy of the electronic master report for the instant application.

### **DISCUSSION**

Petitioner asserts that the delay in responding was caused by nonreceipt of the Notification of Missing Requirements dated 14 June 1999. A proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement).

Applicants have satisfied item (1) above.

Concerning item (2) above, applicants have not provided a statement attesting that a search of the file jacket indicates that the papers were not received.

Concerning item (3) above, the petitioner has not presented a copy of the docket records, i.e., the attorney's docket record for all cases due on the response date 14 July 1999. The "docket system" and the "master report" offered by petitioner as evidence, is a single sheet showing only the above identified application on the sheet.

Therefore, since applicants have not satisfied items (2) and (3) above, the request may not be properly granted.

The case remains abandoned as of midnight on 14 July 1999. Applicants may wish to consider the filing of a petition to revive the application under 37 C.F.R. 1.137 either(a) or (b).

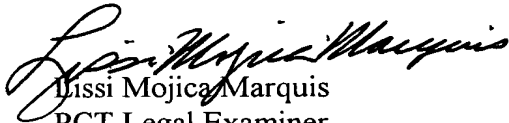
### **CONCLUSION**

The petition under 37 CFR 1.181 to withdraw the Notice of Abandonment is **DISMISSED**.

**BEST AVAILABLE COPY**

The application remains **ABANDONED**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT Legal, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



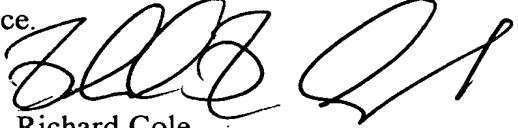
Lissi Mojica Marquis

PCT Legal Examiner

PCT Legal Office

Telephone: (703) 308-2260

Facsimile: (703) 308-6459



Conferee: Richard Cole  
PCT Legal Examiner  
PCT Legal Office

**BEST AVAILABLE COPY**